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*Attorneys for Plaintiff  
L & L Wings, Inc.*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

L & L WINGS, INC.,

Plaintiff and Counterclaim Defendant,

-against-

MARCO-DESTIN INC., 1000 HIGHWAY  
98 EAST CORP., PANAMA SURF &  
SPORT, INC. AND E & T INC.,

Defendants and Counterclaim Plaintiffs.

Civil Action No. CV-07-4137  
(BSJ) (GWG)

**DECLARATION OF  
GREGORY CHOATE  
RE: STORE #751**

Gregory Choate declares as follows under 28 U.S.C. § 1746:

1. I am an agent of Buccaneer Investigations ("BI") which is located in Orange Park, Florida. BI is a private investigative agency.
2. In or around April 2008, I was contacted by Michael Martinez of Advantage PI, Inc. ("Advantage") of Tampa, FL. Advantage retained me to visit the establishment located at

A/72570259.1

LL 001999

3848 State Rd. A1A S., St. Augustine Beach, FL 32080 ("Store 751"). I was instructed to note the usage of any "Wings" signage inside and outside the store, and to purchase a small item and obtain the bag and receipt.

3. On April 18, 2008 at 3:13 pm, I arrived at Store 751 and observed that the main outdoor signs displayed the name "Wings."

4. During my visit to Store 751, I purchased two postcards for \$3.16. The receipt displayed the "Wings" name. A true and correct copy of that receipt is attached as Exhibit A.

5. The shopping bag that I received with my purchase also displayed the "Wings" name. A true and correct photograph of that shopping bag is attached as Exhibit B.

6. Attached hereto as Exhibit C is a true and correct copy of my contemporaneous report prepared at Advantage's request and upon which this Declaration is based.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 30 day of June, 2008.

A handwritten signature in dark ink, appearing to read "Gregory Choate", written over a horizontal line.

GREGORY CHOATE

*Chocolate milkshake,*

*FLORIDA*

**Wings 751**  
 3348 State Road A1A S  
 St. Augustine Beach, FL 32080  
 Phone: (904)461-4445 Fax: (904)461-0210

Date: 4/18/2008 Receipt #: 252228  
 Time: 3:13:18 PM NAME: ST. AGUSTINE, FL  
 Cashier: JILL WS#: 2

	QTY	PRICE	EXT PRICE
CARDS	1	1.99	1.99
450.11	1	0.99	0.99
SHAPE POSTURE			
2 Unit(s)		Subtotal:	
6.000 % Tax			
<b>RECEIPT TOTAL:</b>			3.16
Tend:		20.00	
Change:			16.84

Cash: 20.00  
 Returns within 7 days  
 with receipts only

Refunds within 7 days of purchase with original receipt and merchandise in original conditions.  
 Exchanges within 30 days of purchase with original receipt and merchandise in original conditions.  
 Clearance and bathing suits sales are final.  
**NO RETURNS OR EXCHANGES ON BEACH ACCESSORIES**

252228

**FLORIDA**

EXHIBIT A



SOUTH CAROLINA • ALABAMA • FLORIDA • TENNESSEE  
www.marcodestillh.com

EXHIBIT B

## On-Site Store Checklist

Location Address: Wings 751, 3848 State Rd A1A S, St Augustine, FL  
 Date and Time of Visit: 3:13:18 PM 4/18/2008  
 Agent Name: Gregory Choate  
 Agent Company Name: Buccaneer Investigations  
 Agent Company Address & Telephone number: 1311 Flocken Dr. Orange Park FL 32065  
904-213-4286

Please complete the below pertaining to use, display and visible association with the "Wings" Trade dress

1. Do The Main Outdoor Signs display the name "Wings"?

☒ Yes ☐ No

1a. If answered Yes, please take a picture of the sign and attach to the back of this document.

1b. If answered No, describe what the signs read?

2. Do any Parking Lot Signs or Parking Notice Directions display the name "Wings"?

☐ Yes ☒ No

3. Upon entering and walking around the store, did you notice any small signs that display the name "Wings"? Please be sure to include signs on top of clothing racks, the Store Policy Notice, Store Hours Posting, signage near the dressing room and any other forms of display in your response.

☐ Yes ☒ No

4. While walking around the store, did you notice any hang tags or product promotion stickers attached to merchandise that display the name "Wings"?

☐ Yes ☒ No

4a. If answered Yes to the above, please describe:

For the questions below, base your responses on observations gathered after purchasing an item less than \$2.00 in the store. Be sure to request an itemized receipt and shopping bag.

5. What item did you purchase and how much did it cost?

2 Post cards, \$1.99 and .99 for 2.98 + .18 Tax  
Total \$3.16

6. Does the receipt display the name "Wings"?

☒ Yes ☐ No

7. Does the shopping bag you received or do any shopping bags located behind the register display the name "Wings"?

☒ Yes ☐ No

EXHIBIT C